

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION



In re: Chapter 11
CIRCUIT CITY STORES, INC., et al., Case No 08-35653 (KRH)
Debtors. Jointly Administered

RESPONSE AND REQUEST FOR HEARING TO LIQUIDATING TRUST'S FORTY-THIRD OMNIBUS OBJECTION TO LANDLORD AND CONTRACTOR CLAIMS (REDUCTION OF CERTAIN PARTIALLY INVALID CLAIMS, RECLASSIFICATION OF CERTAIN MISCLASSIFIED CLAIMS, DISALLOWANCE OF CERTAIN INVALID CLAIMS, DISALLOWANCE OF CERTAIN LATE FILED CLAIMS, AND DISALLOWANCE OF CERTAIN AMENDED CLAIMS)

Berkadia Commercial Mortgage, LLC, ("Berkadia") successor-in- interest to Capmark Finance, Inc. on behalf of Bank of America National Association as Successor by Merger to LaSalle Bank National Association fka LaSalle National (the "Claimholder"), by and through its counsel Bryan Cave LLP, hereby files this Response to Liquidating Trust's Forty-Third Omnibus Objection to Landlord and Contractor Claims (Reduction of Certain Partially Invalid Claims, Reclassification of Certain Misclassified Claim, Disallowance of Certain Invalid Claims, Disallowance of Certain Late Filed Claims, and Disallowance of Certain Amended Claims)(the "Objection"), and states as follows:

1. The Bankruptcy Trustee has objected to the proof of claim number 12911 (the "Claim") filed by Claimholder alleging that the liabilities in claim 12911 are the same underlying liabilities included on claim 9721, and thus the proper claimant is unclear.
2. Claimholder held a mortgage on the real property located at 4635 W. College Avenue, Grand Chute, WI. The mortgagor on the property, WEC 96D Appleton 2 Investment

(the "Borrower") leased the property to Circuit City Stores, Inc. ("Circuit City"). The Lease and the rents thereunder were assigned by the Borrower to its lender in an Absolute Assignment of Leases and Rents, effective as of May 21, 1998 (the "Assignment of Leases and Rents"). The Assignment of Leases and Rents was subsequently conveyed to Claimholder.

3. The Assignment of Leases and Rents is attached as an exhibit to Claimholder's proof of claim 9721.

4. Circuit City rejected the Lease.

5. Claimholder is the proper claimant for the liabilities underlying proof of claims 9721 and 12911.

6. In addition to the fact that Circuit City rejected the Lease, the Assignment of Leases and Rents was conveyed to Claimholder.

7. Further, counsel for WEC 96D Appleton 2 Investment has informed counsel for Claimholder that it does not intend to pursue Claim Number 12911 and requested that Claimholder handle the objection to Claim Number 12911.

7. Claimholder has already foreclosed on and sold the property that is the subject of proof of claim 9721 and 12911.

8. Accordingly, Claimholder is the proper claimant.

WHEREFORE, Claimholder respectfully requests that the Court (a) overrule the Objection as it relates to the Claim; (b) allow the Claim as provided in Claimholder's proof of claim; and (c) grant Claimholder such other and further relief as this Court deems appropriate under the circumstances.

Dated: June 24, 2012

BRYAN CAVE LLP

By:/s/ Philip J. Meitl

Philip J. Meitl (VA Bar No. 73215)
Bryan Cave LLP
1155 F Street NW, Suite 700, Washington DC
20004
(202) 508-6000 (phone)

AND

By:/s/ Keitha M. Wright

Keith M. Aurzada
State Bar No. 24009880
Keitha M. Wright
State Bar No. 24075310
2200 Ross Avenue, Suite 3300
Dallas, Texas 75201
(214) 468-3800 (Phone)
(214) 468-3888 (Fax)

Attorneys for Claimholder

CERTIFICATE OF SERVICE

The undersigned hereby states that on the 2nd day of July, 2012, a true and correct copy of the above foregoing instrument was sent to:

Clerk of the Bankruptcy Court
United States Bankruptcy Court
701 East Broad Street-Room 4000
Richmond, VA 23219

/s/ Phillip J. Meitl